

EXHIBIT A

Shannon Baum v.
Officer Michelle Ortega, et al.

Michelle Ortega
October 10, 2014

<p style="text-align: right;">Page 14</p> <p>1 requisition form, or do you submit some kind of a 2 request to replace that? 3 A. I don't submit. You just turn in your thing, 4 and sign off on one. 5 Q. You turn in your empty container and sign off, 6 and they give you a new one? 7 A. Yes, sir. 8 Q. Did you -- did you use your Mace on this 9 particular night? 10 A. Yes, sir. 11 Q. You, yourself, used your Mace? 12 A. I did, sir. 13 Q. Did you use the whole can? 14 A. No, sir. 15 Q. Did you have any left? 16 A. Whatever is there. 17 Q. Whatever is there? 18 A. Yes, sir. 19 Q. You don't use very much Mace? 20 A. No, sir, not at all. 21 Q. Were other officers using Mace? 22 A. Just me. 23 Q. You were the only officer that used Mace? 24 A. At the scene, yes, sir. 25 Q. You didn't see Greg Esparza use it?</p>	<p style="text-align: right;">Page 16</p> <p>1 A. No, sir. 2 Q. Do you have one of those collapsible -- little 3 collapsible things that they use? 4 A. I do have one in my unit, yes, sir. 5 Q. What other equipment are you issued? 6 A. That is about it. Mace, and that is about it, 7 sir. 8 Q. Mace, taser, gun, and of course your badge and 9 the handcuffs. Are all other officers similarly 10 equipped that you know of? 11 A. Yes, sir. 12 Q. Were the officers that you saw there that 13 night equipped the way you are? 14 A. I believe so, sir, yes, sir. 15 Q. What about a gag bag? What is a gag bag? 16 A. Basically, it is not really a gag bag. It is 17 when people spit on you -- to keep them from spitting, 18 they put like -- it has like a net over the face that 19 covers from spitting at you to spread diseases and 20 basically protect us when we are getting spit at. 21 MR. BASHAM: Dan, I have one if you want to 22 see it. 23 MR. MARLOWE: Sure. Can we put that in as an 24 exhibit, do you think? 25 MR. BASHAM: I would be happy to.</p>
<p style="text-align: right;">Page 15</p> <p>1 A. No. 2 Q. Or Martin Vigil? 3 A. No, sir. I was not right there at the time. 4 I was already taken to the unit. 5 Q. We are going to go through all of that then. 6 This is the same can of Mace that you had on 7 that night? 8 A. Yes, sir. I don't recall getting a new one. 9 That is the only time I used my Mace, and it is almost 10 gone. 11 Q. Now, when you want to replace it, you just go 12 to Solomon Romero, who is the equipment issuing officer? 13 A. Yes, sir. 14 Q. How are you equipped when you go out on the 15 street? As I look at you, I see you are wearing a 16 bullet-proof vest? 17 A. Yes, sir. 18 Q. You have a radio? 19 A. Yes. 20 Q. You have a taser, you have a gun, you have 21 handcuffs? 22 A. Yes, sir. 23 Q. You have a baton? 24 A. No, sir. 25 Q. You don't use a baton?</p>	<p style="text-align: right;">Page 17</p> <p>1 MR. MARLOWE: All right. 2 Q. (By Mr. Marlowe) Is that the gag bag that was 3 used on Shannon Baum that night? 4 (Exhibit 1 marked.) 5 A. Sir, I didn't see what she had. I was at the 6 hospital. 7 Q. All right. So that is what I was going to ask 8 you. Let's just go from the beginning on this one. 9 You were at the car wash; is that correct? 10 A. Yes, sir. 11 Q. Were you dispatched there, or were you just 12 there? 13 A. I was cleaning my car out, sir. 14 Q. You were actually cleaning your car. What 15 time of the day or night was that? 16 A. I just started a shift, so it was a little 17 after 6:00. 18 Q. A little bit after 6:00 in the evening? 19 A. In the evening, yes, sir. 20 Q. When did you first notice or first see Shannon 21 Baum? 22 A. The employee from inside the store came out 23 and told me that he saw an individual that looked 24 intoxicated on the third bay. 25 Q. On the third bay?</p>

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1 A. Yes, sir.
 2 Q. That employee was --
 3 A. Martin.
 4 Q. Martin Vigil?
 5 A. No. Martin Gonzalez, I think his last name
 6 is.
 7 Q. Martin Gonzalez --
 8 **MR. BASHAM:** Dan, let her finish answering the
 9 question.
 10 **MR. MARLOWE:** Sorry.
 11 **MR. BASHAM:** That is for the benefit of the
 12 court reporter.
 13 **Q. (By Mr. Marlowe) Did you ever see Yvonne**
 14 **Gonzalez?**
 15 A. After everything, yes, sir.
 16 **Q. Did anybody ever come to your aid, like Martin**
 17 **or Yvonne?**
 18 A. Just Martin and Yvonne.
 19 **Q. What did they do?**
 20 A. To come to my aid?
 21 **Q. Uh-huh.**
 22 A. I just saw feet coming towards me and "get off
 23 her." I can hear him yelling and actually physically
 24 got her off of me.
 25 **Q. Martin did?**

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1 A. Yes, sir. I heard his voice.
 2 Q. Okay. Martin is the one that told you that
 3 there was a person in the third bay that appeared to be
 4 intoxicated?
 5 A. Yes, sir.
 6 Q. What did you do with that information?
 7 A. At that time, I saw her drive -- saw the
 8 vehicle drive around and then parked by the vacuum
 9 cleaners, so I walked, and I approached her and told her
 10 why I was there.
 11 **Q. Did you ever instruct her to drive her car to**
 12 **the vacuum?**
 13 A. No, sir.
 14 **Q. So she had already driven the car there, and**
 15 **you went over and approached her?**
 16 A. Yes, sir.
 17 **Q. Where was she when you approached her?**
 18 A. She was pulling into the vacuum cleaners.
 19 There is like a portal kind of like, and there is some
 20 vacuums that are lined up, and she had just pulled in as
 21 I was walking around.
 22 Q. What did you do?
 23 A. I walked up to her and I advised her why I was
 24 there and told her why I was going to speak with her.
 25 **Q. Why was that?**

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1 A. It was reported to me that she possibly might
 2 be intoxicated on something.
 3 **Q. Did she say anything?**
 4 A. I don't recall. I might have to look at my
 5 notes for that.
 6 **Q. Did you then begin a DWI investigation on her?**
 7 A. I first started with an HGN, which is look
 8 into the eyes and see if I find any clues or not, which
 9 I did.
 10 **Q. The HGN, how far away from her were you?**
 11 A. From her sitting in the car from -- it was a
 12 pretty decent distance, probably a little closer from me
 13 to you right now.
 14 **Q. About three feet away?**
 15 A. Yes, sir, probably a little bit closer.
 16 **Q. She was not in the car, she was out of the car**
 17 **at that time, wasn't she?**
 18 A. No. She was getting out of the vehicle, yes,
 19 sir.
 20 **Q. So she was getting out of the vehicle, and**
 21 **that was based on your instruction for her to get out of**
 22 **the vehicle, I would assume? Is that right?**
 23 A. After the HGN.
 24 **Q. You didn't do the HGN while she was in the**
 25 **car; did you?**

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1 A. I have to look at my report, sir, before I
 2 answer that question.
 3 **MR. BASHAM:** If you don't recall, you don't
 4 recall.
 5 **Q. (By Mr. Marlowe) Do you have your report with**
 6 **you?**
 7 A. No, sir.
 8 **Q. Do you have it in your car?**
 9 A. No, sir.
 10 **Q. Based on your experience, do you do HGNs while**
 11 **people are seated in their vehicle?**
 12 A. It depends. 90 percent of the time, yes, sir.
 13 **Q. 90 percent of the time, they are seated in the**
 14 **vehicle?**
 15 A. Sometimes, I get them out, but I want to look
 16 at the eyes first before I start anything.
 17 **Q. Explain how an HGN is conducted.**
 18 A. Basically, you give them a 45-degree angle as
 19 they are watching the tip of your finger, or whatever
 20 you have them focusing on, and it is an uncontrollable
 21 bounce in their eyes because they have -- lets you kind
 22 of know if they are intoxicated or not, and it is
 23 involuntary, so they don't have no control over that.
 24 **Q. So when you do an HGN, you have them stare at**
 25 **your finger?**

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1 A. Yes, sir.
2 **Q. Not move their head?**
3 A. Yes, sir.
4 **Q. Did you instruct her to stare at your finger**
5 **and not move -- not move her head?**
6 A. Yes, sir.
7 **Q. Then you moved your finger from side to side?**
8 A. I want to say it was my finger, possibly a
9 pen.
10 **Q. Or a pen or --**
11 A. Yes, sir.
12 **Q. -- penlight or whatever. At that point, you**
13 **are looking at her eyes; correct?**
14 A. Yes, sir.
15 **Q. You go all the way to one side to see what the**
16 **movement of the eyes is -- maximum deviation?**
17 A. Yes, sir.
18 **Q. Then you do it to the other side?**
19 A. Yes, sir.
20 **Q. Then you go up, and then you go down; right?**
21 A. Yes, sir.
22 **Q. Vertical and -- vertical nystagmus to see if**
23 **there is anything like that. You test for resting**
24 **nystagmus?**
25 A. Yes, sir.

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1 **Q. Do you use a flashlight to see her eyes, or do**
2 **you use the headlights of your car?**
3 A. It was light out, sir.
4 **Q. It was light out?**
5 A. Yes, sir.
6 **Q. So are you saying then that you don't remember**
7 **whether she was out of the car or in the car when you**
8 **did the nystagmus testing?**
9 A. I need to look at my report, sir. I don't
10 want to answer that question.
11 **Q. Don't want to answer it at all?**
12 A. I want to look at my report, sir.
13 **Q. Okay. How do you determine -- I will withdraw**
14 **that question.**
15 **So when she was -- after you had finished the**
16 **nystagmus test, you are saying that you don't remember**
17 **whether she was in the car or whether she wasn't in the**
18 **car?**
19 A. I just remember asking her -- the next step we
20 were going to do was the walk and turn, and I remember
21 her wearing high heels, so I gave her an option to take
22 them off, or if she was comfortable to keep them on, I
23 remember that, and she says she was going to take them
24 off, and I remember her holding onto the driver's door,
25 leaning over to grab a heel, and she told me, "Fuck

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1 this," and jumped in her car, so I had to get in and go
2 after her. She was trying to take off.
3 **Q. So she was out of the car then?**
4 A. At that time, yes, sir.
5 **Q. You don't remember whether she was out of the**
6 **car before or after the horizontal eye nystagmus test?**
7 **MR. BASHAM:** Objection, asked and answered.
8 Go ahead and answer it again.
9 **Q. (BY MR. MARLOWE) I am a little confused**
10 **because I don't know whether she was in the car or out**
11 **of the car.**
12 **MR. BASHAM:** Objection.
13 A. I have to look at my report.
14 **MR. BASHAM:** Asked and answered.
15 **Q. (BY MR. MARLOWE) At one point, she got out of**
16 **the car?**
17 A. Yes, sir.
18 **Q. Did you instruct her to get out of the car?**
19 A. Yes, sir.
20 **Q. That was so you could perform the field**
21 **sobriety test?**
22 A. To make sure she was okay to drive, yes, sir.
23 **Q. Did you tell her why you were asking her to**
24 **get out of the car?**
25 A. Yes, sir. She agreed.

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1 **Q. There was at some point where she said, "Fuck**
2 **this"?**
3 A. Yes, sir.
4 **Q. And jumped back into her car?**
5 A. Yes, sir.
6 **Q. Did she start her car?**
7 A. She tried to, but she couldn't get it into
8 gear.
9 **Q. She couldn't --**
10 A. Could not get it into gear. She was pressing
11 the gas.
12 **Q. She couldn't get it into gear?**
13 A. I remember leaning in, trying to take the keys
14 out with her.
15 **Q. But the car was not started?**
16 A. Right now, I can't recall. I remember trying
17 to take the keys off and her pushing the gas. She was
18 trying to get into gear is what she was trying to do, I
19 remember that, because I was in the car with her.
20 **Q. Was it an automatic or stick-shift?**
21 A. I don't know, sir. I just know there was
22 something -- I wasn't too sure if it was a stick or just
23 a drive, go, whatever, but I remember her pushing the
24 gas, and I was panicking, trying to get the key out.
25 **Q. Did you reach into the car and around the**

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1 steering wheel and grab the keys?
2 A. Yes, sir.
3 Q. You didn't have to turn the car off because
4 the keys came right out; right?
5 A. No, they didn't come right out. I had to
6 fight to get them out.
7 Q. Fight with her to get them out?
8 A. Fight the ignition to get them out.
9 Q. When you did that, did you take the keys out
10 by reaching in and facing the steering wheel, reach
11 around it, or was your back to the steering wheel?
12 MR. BASHAM: Objection as to form.
13 Go ahead and answer.
14 Q. (By Mr. Marlowe) Do you understand the
15 question?
16 A. No, sir.
17 MR. BASHAM: Can you break it down into two?
18 Q. (BY MR. MARLOWE) I will break it down into
19 two.
20 When you reached in to get the keys, were you
21 facing the steering wheel?
22 A. Yes, sir.
23 Q. Where was Shannon Baum?
24 A. Driver's seat.
25 Q. So you reached across the front of her?

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1 A. We were both reaching for the key.
2 Q. Were you in the car at that point?
3 A. Half my body was in the car, sir.
4 Q. So from the waist up, you were --
5 A. Trying to get her out, trying to stop --
6 MR. BASHAM: Let him finish.
7 Q. (BY MR. MARLOWE) That is all right. I
8 understand.
9 A. I am sorry.
10 Q. You were trying to get the keys out of the
11 car, and she was trying to get the keys also; is that
12 right?
13 A. I just remember trying to get the keys out.
14 It was a struggle, sir.
15 Q. Okay. What was she doing to you?
16 A. To be honest, sir, I just remember trying to
17 get keys out. I don't know exactly what she was doing
18 to me, but I was trying to gets the keys out.
19 Q. Did it ever come to a point where you and she
20 started to struggle?
21 A. Yes.
22 Q. Describe what that struggle was.
23 A. The struggle is me trying to get her out of
24 the car, and when we did finally come out, she landed on
25 top of me.

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1 Q. How were you trying to get her out of the car?
2 A. I was trying to cuff her, I believe. I have
3 to look at my report, but I remember trying to grab her
4 and pull her out, almost like a bear hug and pulling her
5 out.
6 Q. So at some point -- correct me if I am wrong,
7 but at some point -- did you have the keys in your hand
8 at that point?
9 A. No, sir.
10 Q. Did you ever get the keys out of the ignition?
11 A. I don't recall, sir.
12 Q. At some point, were you turned around, and
13 were you facing her --
14 A. Yes.
15 Q. -- in order to get a bear hug on her?
16 A. Trying to get her out of the car, yes, sir.
17 Q. Were you trying to pull her out like trying to
18 pull her whole body out, or were you pulling her head
19 out?
20 MR. BASHAM: Objection as to form.
21 Go ahead and answer.
22 A. I just remember pulling. I am not too sure if
23 it was her arms or whatever, but pulling her out of the
24 car. It was a struggle to get her out.
25 Q. (By Mr. Marlowe) Was she like holding on to

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1 the steering wheel?
2 A. She was holding on to something, sir. I just
3 couldn't get her out.
4 Q. So she was resisting getting out?
5 A. Yes, sir.
6 Q. At some point, she came out all of a sudden,
7 is that a good way to put it?
8 A. I believe so, sir.
9 Q. What I am -- go ahead.
10 A. I am sorry. I just remember when we finally
11 came out, I fell back.
12 Q. So would it be fair to say that while you are
13 tugging to get her out, and you are not being able to
14 get her out, somehow she lost her grip and she came out
15 all of a sudden? Do you know what I am saying?
16 A. Yes, sir.
17 Q. Is that a fair statement?
18 A. Yes, sir.
19 Q. So you are pulling on her, she suddenly comes
20 out of the car, and you fall backwards, and she lands on
21 top of you?
22 A. Yes, sir.
23 Q. Okay. What happened after that? We can take
24 a break.
25 MR. BASHAM: Let the record reflect that the

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<p style="text-align: right;">Page 30</p> <p>1 witness is beginning to cry.</p> <p>2 MR. MARLOWE: We can take just take a small</p> <p>3 break so she can regain her composure.</p> <p>4 MR. BASHAM: Is there a question on the table?</p> <p>5 MR. MARLOWE: No. The question on the table</p> <p>6 was, what happened after that?</p> <p>7 MR. BASHAM: Do you want to take a break?</p> <p>8 Let's go talk.</p> <p>9 (Recess taken at 9:57 a.m. and reconvened at</p> <p>10 9:58 a.m.)</p> <p>11 Q. (BY MR. MARLOWE) The last question was -- we</p> <p>12 left off where you had pulled her out of the car, and</p> <p>13 she had come out all of a sudden and landed on top of</p> <p>14 you, and you fell backwards?</p> <p>15 A. (Witness nods head.)</p> <p>16 Q. The next question was, what happened after</p> <p>17 that?</p> <p>18 A. We rolled around for a while, back and forth.</p> <p>19 I remember trying to get up. I tried to get up. I</p> <p>20 tried. I remember being hit, my hair was being pulled,</p> <p>21 I was trying to call for help, I couldn't. My radio was</p> <p>22 flying everywhere. So we were rolling around for a bit,</p> <p>23 and I finally was able to get her off.</p> <p>24 I like blacked out. I remember right now, I</p> <p>25 am just -- anyway, all I remember was getting ahold of</p>	<p style="text-align: right;">Page 32</p> <p>1 is when the guys finally pulled in.</p> <p>2 Q. (BY MR. MARLOWE) Are you finished?</p> <p>3 MR. BASHAM: Are you done?</p> <p>4 THE WITNESS: Yes.</p> <p>5 Q. (BY MR. MARLOWE) Now I want to ask you a</p> <p>6 couple of questions about what you have just said.</p> <p>7 When you said that you were holding on to each</p> <p>8 other and rolling around, can you tell me what you mean</p> <p>9 by that?</p> <p>10 A. It is like a cat fight. Try to save -- trying</p> <p>11 to get somebody off of you. It is rolling around. I</p> <p>12 can't explain, to be honest with you, sir. Basically,</p> <p>13 you are surviving. I was trying to survive. She was</p> <p>14 trying to hit me. She was trying to hurt me.</p> <p>15 Q. She had her arms around you?</p> <p>16 A. Yes.</p> <p>17 Q. You had your arms around her, and you guys are</p> <p>18 rolling around?</p> <p>19 A. It was more of throwing punches. She is</p> <p>20 hitting me.</p> <p>21 Q. How many times did she hit you?</p> <p>22 A. I can't count, sir.</p> <p>23 Q. Was she hitting you with a closed fist?</p> <p>24 A. I just remember being hit and my hair being</p> <p>25 pulled.</p>
<p style="text-align: right;">Page 31</p> <p>1 her hair, she got ahold of mine, we both came down</p> <p>2 knee-to-knee. She was right next to me. I looked over,</p> <p>3 and I saw this person standing there watching us, and --</p> <p>4 "My God, Lady, help me," and I am holding on to hers,</p> <p>5 and she is holding on to mine.</p> <p>6 She started tugging at my gun. She was trying</p> <p>7 to get my gun out. She said, "I am going to fucking</p> <p>8 kill you with your own gun, you bitch."</p> <p>9 MR. BASHAM: Let her finish.</p> <p>10 Are you done?</p> <p>11 THE WITNESS: No.</p> <p>12 MR. BASHAM: Continue.</p> <p>13 THE WITNESS: She was tugging it, and tugging</p> <p>14 and tugging. I kept thinking to myself, I am going to</p> <p>15 go home. I am holding on to her, and holding on to her,</p> <p>16 and, "Lady, help me." I see her, and I heard this guy</p> <p>17 running, "Get the "F" off of her," and I feel him</p> <p>18 push -- like pull her off of me, and he pushed her off</p> <p>19 of me, and I remember looking around.</p> <p>20 I am all distraught, my hair is a mess, my</p> <p>21 uniform is torn up, and she didn't get this out, wasn't</p> <p>22 able to, and I couldn't find my Mace. It is over there</p> <p>23 in the corner, it is over there, so I grabbed it. She</p> <p>24 tried to get back up, and I Maced her, and I turned</p> <p>25 around, I couldn't breathe. I fainted, fell over. That</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. Do you remember how many times she hit you?</p> <p>2 A. No.</p> <p>3 Q. Did she hit you solidly?</p> <p>4 A. I just felt hits. I can still feel them. I</p> <p>5 can feel hits.</p> <p>6 Q. To your body or to your face?</p> <p>7 A. Head, hair. My vest, couldn't feel too much</p> <p>8 there.</p> <p>9 Q. How many times do you think she hit you?</p> <p>10 A. I don't know, sir. We were there for a while.</p> <p>11 I want to say a good minute or so plus.</p> <p>12 Q. Was she hitting you the whole time?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Yes?</p> <p>15 MR. BASHAM: That was a "yes."</p> <p>16 MR. MARLOWE: Okay.</p> <p>17 Q. (BY MR. MARLOWE) Then this individual came</p> <p>18 over and pulled her off of you?</p> <p>19 MR. BASHAM: Answer out loud.</p> <p>20 A. Yes, sir.</p> <p>21 Q. (By Mr. Marlowe) Were you both still on your</p> <p>22 knees at that point?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Do you remember what direction you were faced</p> <p>25 in?</p>

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<p style="text-align: right;">Page 34</p> <p>1 A. Well --</p> <p>2 Q. Let me see. I want to help you.</p> <p>3 Were you faced like toward the mountains, or</p> <p>4 were you faced the other direction?</p> <p>5 MR. BASHAM: Objection as to form.</p> <p>6 Go ahead and answer.</p> <p>7 A. The bays are this way, they are facing north</p> <p>8 and south. Probably the south direction.</p> <p>9 Q. (By Mr. Marlowe) Okay. So you were both on</p> <p>10 your knees?</p> <p>11 A. Yes, sir.</p> <p>12 Q. At that point, this other individual stepped</p> <p>13 in, is that right, while you were still both on your</p> <p>14 knees?</p> <p>15 A. Yes, sir.</p> <p>16 Q. She is bear hugging you?</p> <p>17 A. She is trying to take my gun, sir.</p> <p>18 Q. Was she -- she wasn't hugging you anymore?</p> <p>19 A. She was still pulling my hair with this hand,</p> <p>20 but this hand was over here on my gun.</p> <p>21 Q. So was she holding you close to her?</p> <p>22 A. I was holding the gun tight to me.</p> <p>23 Q. You were holding the gun?</p> <p>24 A. I was with the hand like this and holding this</p> <p>25 tight, trying to keep her from taking my gun.</p>	<p style="text-align: right;">Page 36</p> <p>1 there based on your prior information?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And they probably did a 78 check? Is that</p> <p>4 what you said?</p> <p>5 A. Yes, sir, and they didn't -- I didn't respond,</p> <p>6 and that is --</p> <p>7 Q. Go ahead.</p> <p>8 A. That is why the officers went to make sure I</p> <p>9 was okay, because I didn't respond.</p> <p>10 Q. I assume you know that by talking with some of</p> <p>11 the officers about how the whole thing came about?</p> <p>12 A. Yes, sir.</p> <p>13 Q. All right, and when the backup arrived, who</p> <p>14 arrived first?</p> <p>15 A. I saw Greg.</p> <p>16 Q. Greg Esparza.</p> <p>17 A. Then I saw Martin. I am not too sure who</p> <p>18 drove up first.</p> <p>19 Q. Did anybody else arrive?</p> <p>20 A. Supervisors, because they have to be there for</p> <p>21 that.</p> <p>22 Q. So first Greg Esparza arrives?</p> <p>23 A. I remember seeing Greg. I look up and see</p> <p>24 Greg. I am not saying who pulled up first, but when I</p> <p>25 looked up, I saw Greg.</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. Okay. At what point did somebody come over</p> <p>2 and pull her back away from you?</p> <p>3 A. While I was holding my gun.</p> <p>4 Q. Did that person completely separate you, or</p> <p>5 was he struggling to separate you when backup arrived?</p> <p>6 A. I just heard him telling her, "Get the 'F' off</p> <p>7 her," and all I felt is him pull her from me.</p> <p>8 Q. When did the -- when did the backup arrive?</p> <p>9 A. Shortly after.</p> <p>10 Q. Do you know how -- who called them?</p> <p>11 A. I think they came because I wasn't answering</p> <p>12 my radio. They were trying to check -- 78 checks. What</p> <p>13 that means is to see if I am okay.</p> <p>14 Q. Did they know -- how would they know where you</p> <p>15 were?</p> <p>16 A. I told them on the radio.</p> <p>17 Q. So at some point, you were able to get</p> <p>18 dispatch your position?</p> <p>19 A. I told them what I was doing before I started.</p> <p>20 Q. You told them that you were going to clean</p> <p>21 your car out before you started your shift?</p> <p>22 A. Yes, sir, then I told them I had a report of a</p> <p>23 drunk person I will be checking up on right now, pulling</p> <p>24 in, so they knew what I was doing.</p> <p>25 Q. So what happens is that they knew you were</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Were you still on your knees at that point?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Was she still holding on to you?</p> <p>4 A. No, sir. We have already been separated.</p> <p>5 Q. Okay.</p> <p>6 A. That was when I collapsed. That is when I</p> <p>7 lost my breath.</p> <p>8 Q. Was she still on her knees?</p> <p>9 A. I have already Maced her, sir. I was facing</p> <p>10 the other direction.</p> <p>11 Q. So you had Maced her and then --</p> <p>12 A. Turned around.</p> <p>13 Q. You turned your back on her?</p> <p>14 A. She was on the floor, sir.</p> <p>15 Q. Was she laying on the floor, or was she</p> <p>16 kneeling?</p> <p>17 MR. BASHAM: Objection as to form.</p> <p>18 A. I don't recall, sir.</p> <p>19 Q. (By Mr. Marlowe) You don't recall?</p> <p>20 A. No, sir.</p> <p>21 Q. Would it be in your report?</p> <p>22 A. It should be in my report.</p> <p>23 MR. MARLOWE: You will get me a copy of her</p> <p>24 report; right? I don't have her report, actually.</p> <p>25 MR. BASHAM: I am just wondering if I have a</p>

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1 A. Yes, sir.
2 Q. Then you went to the hospital after that?
3 A. Yes, I did.
4 Q. Did you see anything that happened after that?
5 A. No, sir. I was sent home after that.
6 Q. You were sent home after that, and that means
7 that Greg Esparza and Martin Vigil basically took over,
8 would that be a fair statement?
9 A. I wasn't there.
10 Q. Did you ever get a handcuff on her?
11 A. One.
12 Q. One cuff on her?
13 A. How it got there, I don't remember.
14 Q. But did you get a cuff on her?
15 A. Yes, sir.
16 Q. That was a -- it was locked on to her,
17 basically?
18 A. Yes, sir.
19 Q. So she had one free hand and one handcuff?
20 A. Yes, sir.
21 Q. When she was fighting with you and hugging
22 you, was that cuff still on her?
23 A. It never came off.
24 Q. So did you put the cuff on her while she was
25 in the car before you pulled her out?

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1 A. I have to look at my report, sir, for that
2 question.
3 Q. You never saw -- you never saw any other
4 police officer complete handcuffing with your cuffs?
5 A. No, sir.
6 Q. When you cuff somebody, do you cuff them
7 immediately?
8 A. When they are under arrest, yes, sir.
9 Q. Was she placed under arrested immediately?
10 A. I can't answer that question, sir.
11 Q. Because you don't know?
12 A. I have to look at my report.
13 Q. You weren't conscious -- you weren't aware of
14 what was going on at that point, were you?
15 A. Yes, I was.
16 Q. Did you see her get arrested?
17 A. By the other officers?
18 Q. Yes.
19 A. No, sir.
20 Q. Did you see her get handcuffed at any time?
21 A. No, sir.
22 Q. Did you see her being taken to another police
23 unit and placed in the unit?
24 A. No, sir.
25 Q. Did you see the gag bag being placed over her

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1 head?
2 A. No, sir.
3 Q. Did you see any other police officers Mace
4 her?
5 A. No, sir.
6 Q. So you didn't see anything that she did or the
7 other officers did after you turned around, saw the
8 police cars coming in the driveway and collapsed?
9 A. No, sir.
10 Q. Didn't see anything else?
11 A. No, sir.
12 Q. It was at that point that you asked for help?
13 Medical attention?
14 A. Yes, sir.
15 Q. Then you went to the hospital in the
16 ambulance?
17 A. Yes, sir.
18 Q. That is where they -- they treated you for
19 your exposure to Mace?
20 A. More of my knees and where I was hurting from
21 falling, my back, my head.
22 Q. What was your chief complaint?
23 A. What was my chief complaint?
24 Q. Yes. What was the biggest problem you had
25 when you went to the hospital?

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1 A. Probably my knees from falling down.
2 Q. Okay.
3 A. They were pretty bruised up.
4 Q. Do you know who -- I assume you don't, but you
5 don't know who put the bag on her; do you?
6 A. No, sir.
7 Q. You don't know how many times she was Mace
8 after you had applied Mace to her?
9 A. No, sir.
10 Q. Do you know who called for the gag bag, which
11 officer said, "put this on," or is that just an
12 individual decision?
13 A. No, sir. I can't.
14 Q. You can't say?
15 A. I wasn't -- I can't say. I was not there for
16 that.
17 Q. But you do know that she was Mace before the
18 gag bag was placed on her? Do you know that?
19 A. I Mace her.
20 Q. She didn't have the gag bag on at that point,
21 did she?
22 A. No, sir.
23 Q. When you say spitting, you didn't see her
24 spitting, did you?
25 A. I was gone, sir.

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1 Q. You were gone?
2 A. I was already gone, sir.
3 Q. Okay. So you don't know whether the other
4 officers used Mace or not?
5 A. No, sir.
6 Q. We have already named -- or you have already
7 named the persons that were. One of those was Greg
8 Esparza, one was Martin Vigil, then there is the two
9 individuals, Martin Gonzalez and Yvonne Gonzalez that
10 were there?
11 A. Yes, sir.
12 Q. Did Yvonne Gonzalez participate in any way
13 that you know of?
14 A. No.
15 MR. BASHAM: Participate in what?
16 Q. (BY MR. MARLOWE) In separating you from
17 Shannon Baum?
18 A. No, sir.
19 Q. Or any of the activities that happened that
20 night?
21 A. No.
22 Q. Did you call for help?
23 A. I couldn't.
24 Q. I mean, did you call out, "Help me," to Martin
25 or to Yvonne that were there?

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1 A. No.
2 Q. Okay. How long do you think -- how long do
3 you think it took the backup guys to arrive once this
4 whole thing started?
5 A. I don't know exactly how long, but the records
6 will show when I called off to speak with her and the
7 minute they arrived. There will be a record of the
8 time.
9 Q. When you called --
10 A. When I told dispatch what I would be doing.
11 Q. When you told them that you were cleaning your
12 car?
13 A. Not the cleaning the car part, sir, when I
14 told them I will be speaking to a person that was
15 reported to me possibly intoxicated.
16 Q. Okay.
17 A. That was the last response they had gotten
18 from me.
19 Q. Okay. How many times do you think she punched
20 you?
21 MR. BASHAM: Objection, asked and answered.
22 A. I don't recall, sir.
23 Q. (By Mr. Marlowe) Don't recall?
24 A. No.
25 Q. You don't recall whether it was with a closed

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1 fist or not?
2 MR. BASHAM: Objection, asked and answered.
3 A. No.
4 MR. MARLOWE: I don't think I have anything
5 further at this point.
6 MR. BASHAM: I have one question. I guess
7 this would be marked as Exhibit A.
8 MR. MARLOWE: Yes.
9 EXAMINATION
10 BY MR. BASHAM:
11 Q. This is what plaintiff's counsel has
12 constantly referred to as a gag bag.
13 What do you guys refer to it as?
14 A. A spit bag. Like spit, so you won't be spit
15 at. We don't really call it a gag bag.
16 Q. As you look at it, there is no cord down at
17 the bottom of it that you can tighten; correct?
18 A. No, sir.
19 Q. How many times did Shannon Baum tell you that
20 she was going to "kill you with your own fucking gun,
21 bitch"?
22 A. I don't recall how many times, but enough for
23 me to not forget.
24 Q. So it was more than once?
25 A. Yes, sir.

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1 MR. BASHAM: No further questions.
2 EXAMINATION
3 BY MR. MARLOWE:
4 Q. I have one more question. When you Maced her,
5 you sprayed it directly into her face? Isn't that the
6 right way you do it?
7 A. Sprayed it at her, yes, sir.
8 Q. So if you were going to Mace me with that,
9 you'd grab it and shoot it right at my face?
10 A. I will shoot it at your face, yes, sir.
11 Q. It comes out as a fog but sticks to you; is
12 that right?
13 A. Yes, sir.
14 Q. Is there some kind of a chemical property in
15 the fog that causes it to stick to things?
16 A. I can't answer that question, sir.
17 Q. They do give you a manual, a Mace manual,
18 don't they, for you to read?
19 A. Yes, sir.
20 Q. In that manual, it tells you what it does, how
21 to treat it if you are exposed, that kind of thing?
22 A. Yes, sir.
23 Q. Didn't I ask you to give that manual --
24 A. You did.
25 MR. BASHAM: Before we leave this deposition

EXHIBIT B

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<p style="text-align: right;">Page 22</p> <p>1 peace officer?</p> <p>2 A. Yes, it was.</p> <p>3 Q. Among other things, correct?</p> <p>4 A. Uh-huh.</p> <p>5 Q. And was alcohol involved in that arrest?</p> <p>6 A. It was.</p> <p>7 Q. Were illegal drugs involved in that arrest?</p> <p>8 A. They were not.</p> <p>9 Q. Were prescription drugs involved in that</p> <p>10 arrest?</p> <p>11 A. No.</p> <p>12 Q. And this is the incident that is the basis of</p> <p>13 this lawsuit, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Let's go to Exhibit Number 3.</p> <p>16 (Exhibit 3 marked.)</p> <p>17 Q. (By Mr. Basham) Okay. Do you recognize that</p> <p>18 document?</p> <p>19 A. I do.</p> <p>20 Q. Okay. That's the version of the events as</p> <p>21 you recall it that led up to the incident at issue,</p> <p>22 correct?</p> <p>23 A. Uh-huh.</p> <p>24 Q. You have to say "yes" or "no."</p> <p>25 A. Oh, yes. Yes.</p>	<p style="text-align: right;">Page 24</p> <p>1 couple of drinks at the Conoco coming down the hill."</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Describe that for me.</p> <p>4 A. I got off work, I was -- it was any normal</p> <p>5 day. I was coming down, I was talking to my boyfriend,</p> <p>6 we got in an argument about, of course, financial</p> <p>7 stuff, I was a little irritated, stopped at the Conoco,</p> <p>8 picked me up a couple miniatures, you know, where --</p> <p>9 actually, it was a half pint bottle of vodka. I</p> <p>10 started down the road coming down to Espanola. That</p> <p>11 was what happened there.</p> <p>12 Q. So as you were driving, you were drinking?</p> <p>13 A. Once I got probably to the pueblo, the</p> <p>14 turnoff, that's when I took my first shot.</p> <p>15 Q. Okay. Did you finish the half pint?</p> <p>16 A. No, I didn't finish it until I got to the car</p> <p>17 wash. I took two shots and then I went straight to the</p> <p>18 car wash and I stayed there and I finished drinking and</p> <p>19 washed my car while I sat there and drank. Took the</p> <p>20 keys out of my ignition.</p> <p>21 Q. Are you aware that two empty pints of vodka</p> <p>22 were found in your purse?</p> <p>23 A. I was aware that there was some found in my</p> <p>24 car, not in my purse. They found it in my car. My</p> <p>25 purse was emptied out. They threw everything</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Okay. And go through them all because there</p> <p>2 are several pages to it.</p> <p>3 A. Okay.</p> <p>4 Q. And I just want you to admit that these are</p> <p>5 the answers that you gave me to my discovery. That's</p> <p>6 the interrogatories.</p> <p>7 A. Uh-huh.</p> <p>8 Q. Right?</p> <p>9 A. (Witness nods head.)</p> <p>10 Q. You can't nod. You have to say "yes" or</p> <p>11 "no."</p> <p>12 A. Yes. Yes, they are the interrogatories.</p> <p>13 Q. Okay. And then at the very end, there are</p> <p>14 two more pages, and that's also your statement,</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And that's one that you provided to</p> <p>18 your attorney, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. On the first page, I have highlighted</p> <p>21 some stuff, right?</p> <p>22 A. Uh-huh.</p> <p>23 Q. Yes. Shannon, you have to say "yes."</p> <p>24 A. Yes.</p> <p>25 Q. Okay. You say that you "stopped and had a</p>	<p style="text-align: right;">Page 25</p> <p>1 everywhere. We couldn't even find my purse.</p> <p>2 Q. So why didn't you wait to get home to drink?</p> <p>3 A. Because I was fighting with my boyfriend. I</p> <p>4 didn't want to go home because I thought things would</p> <p>5 get escalated and it would get worse and turn into</p> <p>6 something worse. So that's why I decided to go to the</p> <p>7 car wash and go mellow out and sit there, and, you</p> <p>8 know, mellow out, wash my car, vacuum it, clean it, do</p> <p>9 the whole thing, sit there, wait for some friends to</p> <p>10 come by, you know. I wasn't planning on driving.</p> <p>11 That's why I stopped. That's why I stopped there, was</p> <p>12 for the whole purpose that I wouldn't drink and drive.</p> <p>13 Q. But you had previously --</p> <p>14 A. I took a shot, yes, I took a couple shots,</p> <p>15 and then drove into the car wash and stayed there.</p> <p>16 Q. And finished off the bottle?</p> <p>17 A. Yes.</p> <p>18 Q. And you testified that you and your boyfriend</p> <p>19 were arguing over finances, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Tell me about that.</p> <p>22 A. We were just having an argument over, you</p> <p>23 know, we didn't pay a bill, there were other bills due,</p> <p>24 I needed to get -- issues that couples have. Who was</p> <p>25 going to be picking up the kids today, you know, but</p>

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1 it's usually been fights about financial issues.
2 **Q. Okay. On the bottom of that first page, I**
3 **have highlighted, "I'm not driving and she forcefully**
4 **grabbed my arm and put a handcuff on my right wrist, I**
5 **jumped to my car's front seat and said 'Fuck this.'**
6 **She jumped on top of me and we fell to the ground."**
7 A. Uh-huh.
8 **Q. So you admit that happened?**
9 A. What?
10 **Q. You admit that happened?**
11 A. I admit that happened.
12 **Q. So you essentially disobeyed an officer?**
13 A. Essentially, she was harassing me. That's
14 why I just wanted to leave and did not want to -- I
15 wanted to avoid the confrontation, because, first of
16 all, she coerced me into driving by asking me to move
17 my car when she knew that she had gotten a call that I
18 was drinking there.
19 And she asked me to get in my car and move
20 it. As soon as I did that, then she proceeded to give
21 me a DWI test, after she had me drive the car, and
22 after that, then she proceeded -- and she didn't give
23 it to me once, she gave it to me three, you know, four
24 times, and wouldn't stop, and then told me I was under
25 arrest. And, you know, of course, my eyes were red, I

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1 had been crying. I wasn't drunk. I had been crying.
2 I was upset. She then told me I was under arrest; for
3 what, I didn't even know. I had not even been driving.
4 **Q. Okay. So you said that she got a call that**
5 **you had been drinking and driving?**
6 A. (Witness nods head.)
7 **Q. Tell me about that.**
8 A. What I know is she showed up there. I didn't
9 know that she had been called. I am in a stall, I am
10 washing my car, she comes in and she says, "Excuse me.
11 Can you please move your car? I need you to come pull
12 your car over."
13 I said, "All right." I got in my car and I
14 moved it. Did I disobey an order, no, I did what she
15 told me. Then she proceeded to ask me to get out of
16 the car, which I did. Then she asked if I had been
17 drinking because my eyes were red. I said, "No."
18 **Q. But you had been drinking, correct?**
19 A. I did, I did, I said, "No." She asked me why
20 my eyes were red. I told her I was fighting. Then she
21 asked me to give -- she proceeded to give me the pen
22 test with my eyes. She did it about three times. And
23 then she told me she was going to place me under
24 arrest. When I said, "For what," she told me it was
25 for DWI. I said, "Well, I am not driving."

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1 **Q. Okay.**
2 A. "You had me drive." You know, I didn't see
3 that as fair. How could a cop stop you when you're not
4 even driving? So that's when the whole incident
5 started.
6 **Q. Okay. Let's turn to the next page.**
7 A. Okay.
8 **Q. So there you say, "I ingested two drinks of**
9 **vodka at around 4:30 on June 7, 2011," correct?**
10 A. Uh-huh.
11 **Q. But, in fact, it was more than two drinks of**
12 **vodka, wasn't it?**
13 A. No. I ingested two drinks around 4:30, when
14 I got there. That was before. When I was there, yes,
15 I drank more, but when I was there -- before I got to
16 the car wash, I drank two drinks while I was driving.
17 **Q. Okay. And how much more did you drink when**
18 **you got to the car wash?**
19 A. I finished off the half pint.
20 **Q. Okay. And then let's go to the next page.**
21 **Here you said, "I could feel the liquid**
22 **dripping of my face and hair," and that was the Mace,**
23 **correct?**
24 A. Correct.
25 **Q. And how many times would you say you were**

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1 **Maced?**
2 A. Consistently, probably when they first threw
3 me on the floor, they just kept the nozzle going. It
4 was just one consistent flow. And it wouldn't stop.
5 So that was the first time, when they just wouldn't
6 stop, and there was about --
7 **Q. Okay. I'm sorry for cutting her off. I'm**
8 **sorry for cutting you off.**
9 A. Uh-huh.
10 **Q. You said it was "continuous."**
11 A. Yes.
12 **Q. How long would you say it was?**
13 A. I'd say about a minute. They just sprayed me
14 down and I could feel not just one spray, but it was
15 coming from all directions in my face. It was just
16 coming from all directions.
17 **Q. Okay. Be a little bit more specific for me,**
18 **please.**
19 A. Sure. As I had my hands up and I was
20 surrendering, they -- I could hear officers coming in
21 and I immediately felt a discharge of liquid coming
22 from all angles into my face, on my arms, on my back,
23 everywhere, and they continued to do this for
24 approximately 45 seconds to 60 seconds. It just
25 wouldn't stop. And that was that. I was yelling to

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1 "Stop" while it was happening and I was with my hands
2 up surrendering.
3 **Q. Were you on the ground or standing?**
4 A. I was on my knees with my arms in the air.
5 **Q. Okay. Where was Officer Michelle Ortega?**
6 A. She was -- they had already -- she had
7 already been picked up and she was being taken to the
8 ambulance --
9 **Q. Okay.**
10 A. -- is what I recall.
11 **Q. Okay. Let me step back here a little bit.**
12 A. Sure.
13 **Q. Had you taken any prescription drugs that**
14 **day?**
15 A. I did not, no.
16 **Q. They found an empty bottle of oxycodone in**
17 **your purse.**
18 A. Uh-huh. That was prescribed to me, but it
19 wasn't -- if you read the date, it wouldn't have been
20 in there. It was an old bottle that was empty.
21 **Q. So why do you keep empty bottles in your**
22 **purse?**
23 A. I guess I shouldn't keep it. It wasn't in my
24 purse, it was in the glove box of my car.
25 **Q. And I know you testified earlier you don't do**

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1 illegal drugs.
2 **Did you take any illegal drugs that day?**
3 A. I did not.
4 **Q. Now, the police report states that you had**
5 **done cocaine that day.**
6 A. And I did not. I don't do -- I didn't do any
7 illegal drugs.
8 **Q. So it's your testimony you didn't tell them**
9 **that you took cocaine that day?**
10 A. No.
11 **Q. Let me ask you this -- well, let me hold**
12 **off. Strike that.**
13 A. Sure.
14 **Q. Let's go to the next page. You say at this**
15 **point in time, that officer told you to "Shut up. You**
16 **are going down. You'll never work at the Lab again."**
17 **And that's in quotations, correct?**
18 A. Uh-huh.
19 **Q. So do you know what officer told you that?**
20 A. I do not. By that time, I was already
21 sitting in the car, the gag bag was over my face, I was
22 in hysterics, I couldn't breathe, and I could just hear
23 him yelling at me to shut up because I was crying.
24 **Q. How would the officer know that you worked at**
25 **the Lab?**

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1 A. My badge. I had my badge in there that says
2 "Los Alamos National Laboratory."
3 **Q. In where?**
4 A. In my car. I was coming down from work that
5 day and I had my badge in my car.
6 **Q. So the officer, while he was Macing you, is**
7 **looking in your car?**
8 A. This was after he had Maced me and this was
9 prior -- after he had Maced me, and I don't know if it
10 was this officer. There were three or four officers
11 there. I don't know which one it was. All I know is
12 the one that was sitting inside the car with me told me
13 that I would never work at the Lab again.
14 Whether it was the one that Maced me or if he
15 was with the ones that Maced me, because it was not
16 just one that Maced me, it was all of them. I mean,
17 they all emptied their cans of Mace on me, but, you
18 know, it was -- he told me that, specifically, because
19 I remember hearing that as I had the bag over my head
20 and I was being transported.
21 **Q. Would you admit that mixing cocaine,**
22 **oxycodone, and alcohol is dangerous?**
23 A. Oh, yes.
24 **Q. Do you believe a person could get wasted by**
25 **mixing those three?**

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1 A. Yes, I do.
2 **Q. Okay. Do you agree, by mixing those three,**
3 **that someone might not be in either her or his right**
4 **mind?**
5 A. Correct. And I would never mix them because
6 I have had people close to me that have died from
7 overdoses and stuff like that. And the bottle that I
8 had was for a prescription for myself from a dental
9 procedure that I had.
10 That's why I had the bottle. Whether I had
11 it there, there was none in there. It was an empty
12 bottle. And it was -- if you look at the date, it was
13 back in March, is when the date was on that bottle. It
14 was just that I left it in there.
15 **Q. Now, if someone mixed those three, would you**
16 **agree that they might black out?**
17 A. Yes.
18 **Q. Have you ever blacked out?**
19 A. I have, but not from those three. I have
20 blacked out from drinking alcohol.
21 **Q. Okay. Now, in here, going back to page three**
22 **or four of Exhibit Number 3, you claim that you -- that**
23 **they made you get naked?**
24 A. Yes.
25 **Q. Tell us about that.**

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<p style="text-align: right;">Page 34</p> <p>1 A. Okay. So after they put the bag on my head 2 and we got to the police station, they took me in, they 3 immediately took me into the doors where it was -- kind 4 of like my vision was blurry at the time. They took 5 the gag bag off when I got into, like, a garage area, 6 it looked like, okay, it was kind of a big garage 7 place. 8 They took the bag off my head. I knew it was 9 big because it echoed. When they took off the gag bag, 10 then I asked them if I could please rinse my face 11 because I was in pain, I was burning, I couldn't 12 breathe, I was choking and coughing, and I kept asking 13 them over and over, "Can I rinse my face, put water on 14 my face?" 15 And the officer told me to take off my 16 clothes. He said, "You need to take off your 17 clothes." And he ordered me to. So I did. I was 18 taking them off slowly, you know, I wasn't -- I was 19 kind of hesitant to do this. 20 So I am taking them off. There were a couple 21 of them that started -- I felt one start pulling my 22 shirt and hurrying me up, the other was pulling my 23 legs. They hurried me up to take my clothes off, 24 stripped me down, completely down, and pushed me inside 25 a shower, a warm shower, where as soon as I hit the</p>	<p style="text-align: right;">Page 36</p> <p>1 away started to burn. It wasn't until four days that I 2 could stand for a few seconds in the shower," correct? 3 A. Correct. 4 Q. And down towards the bottom, you say, "It has 5 been almost three years, and to this day, if I see an 6 officer of the law, or, for that matter, even a 7 security guard, I have severe anxiety, I start to get 8 sick, I can't stop my body from feeling like I'm 9 jumping out of my skin because I feel so angry and 10 scared inside." 11 A. Correct. 12 Q. Okay. And then the next page, it says, "Upon 13 transportation to Espanola Jail, I was denied medical 14 attention when, in fact, I was in severe need." 15 A. Correct. 16 Q. Okay. Let's go to the next page. 17 And this is the statement that you provided 18 to your attorney, correct? 19 A. Correct. 20 Q. And it says, "I tried to get into my car and 21 by this time, she was on top of me in the driver seat 22 of my car." 23 Do you agree with that statement? 24 A. I'm sorry, where are we? 25 Q. Where I highlighted.</p>
<p style="text-align: right;">Page 35</p> <p>1 shower, I started screaming because it felt like 2 someone threw me in a fire, like they lit my skin on 3 fire. It was just an immediate reaction. 4 And I just started screaming to no end and I 5 could hear them laughing and poking fun and just being 6 -- just being mean. And Mr. Avado, David Avado, which 7 I didn't know his name at the time, he was a security 8 guard there, came in and he held up a towel and he told 9 them to stop and to leave me alone. 10 And he looked at me and he said, "I'm 11 sorry." He said, "They shouldn't be doing this. I 12 don't know why they are doing this to you." And he put 13 a towel up on the shower so that they wouldn't be 14 laughing and joking. And I asked them to stop again. 15 And then from there, he took me -- he wrapped me in the 16 towel and he handed me a jumpsuit and he told me to put 17 it on. 18 Q. Okay. Now, turn to the next page. 19 And we are still on your statement, correct? 20 A. Uh-huh. 21 Q. And you say, "The next day, I was transported 22 to Santa Fe Jail." 23 A. Correct. 24 Q. Okay. And at the bottom, it says, "After the 25 initial two day, I tried to rinse myself off and right</p>	<p style="text-align: right;">Page 37</p> <p>1 A. Okay. Yes. So I didn't try, which is my 2 mistake. I got into my car. I actually sat in my car 3 when she actually jumped on top of me. 4 Q. Okay. But you said "Fuck this" and jumped 5 into your car and tried to turn on the ignition, 6 correct? 7 A. I did, yes. 8 Q. Okay. So that's resisting an officer, 9 correct? 10 A. Correct. 11 Q. And then the next highlight is going back to 12 the Mace. 13 A. Uh-huh. 14 Q. You say, "I could feel the liquid dripping 15 from my hair and face," correct? 16 A. Yes. 17 Q. So you testified earlier it was coming from 18 all angles from a variety of different officers, 19 correct? 20 A. Uh-huh. 21 Q. And so it was just dripping off you? 22 A. Yes. 23 Q. Okay. That's your testimony? 24 A. It was dripping, yes. It was -- when I was 25 standing up against the cop car after they had drug and</p>

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<p style="text-align: right;">Page 46</p> <p>1 Q. Okay.</p> <p>2 A. That would probably be on the low end.</p> <p>3 Q. And under "Patient History," it says,</p> <p>4 "Alcohol, infrequent, social use only."</p> <p>5 A. Uh-huh.</p> <p>6 Q. You stand by that statement?</p> <p>7 A. Yes.</p> <p>8 Q. That you infrequently use alcohol?</p> <p>9 A. I am not an every day alcohol user. Do I do</p> <p>10 it on weekends, sometimes, yes, but I don't use alcohol</p> <p>11 every day.</p> <p>12 Q. And how many DWI arrests have you had?</p> <p>13 A. Three in the last -- in my 30s. I never,</p> <p>14 ever before my 30s got arrested, but yes, in my 30s, I</p> <p>15 was having some kind of a hardship, I was going through</p> <p>16 some things, and if you look at my arrest records, it's</p> <p>17 all in three years, and I never, ever got in trouble</p> <p>18 before that.</p> <p>19 Was I going through some kind of crisis, or,</p> <p>20 you know, thing, yes, I was. I was having -- I was</p> <p>21 having a life -- I don't know what you want to call it,</p> <p>22 but during my 30s, from about 31 until about, you know,</p> <p>23 36, yes, I went off the deep end. I don't know what</p> <p>24 happened. I don't know why I did what I did.</p> <p>25 All I know is that you know, I was drinking</p>	<p style="text-align: right;">Page 48</p> <p>1 don't drive at all hardly, you know, I don't even</p> <p>2 drink. I have not drank since then.</p> <p>3 Q. So you were going through a rough patch?</p> <p>4 A. Yes.</p> <p>5 Q. You were being crazy?</p> <p>6 A. I was.</p> <p>7 Q. And crazy enough to try and kill a female</p> <p>8 police officer with her own gun?</p> <p>9 A. No, no, never would I do that. Never. Never</p> <p>10 would I do that. I would never try to kill any human</p> <p>11 being with their own gun, and especially a cop with</p> <p>12 their own gun. Did we get into a scuffle and did she</p> <p>13 -- was she harassing me, yes; did we fight, yes, but,</p> <p>14 you know, I paid for that.</p> <p>15 I went and I did my aggravated. I got in</p> <p>16 trouble for DWI. You know, the point of the matter was</p> <p>17 that I was handcuffed, I was subdued, they beat me, and</p> <p>18 they put me in the showers. I mean, I did -- I got in</p> <p>19 trouble, yes, and I did my thing. I still, you know,</p> <p>20 to this day, have had to answer to what I did, but did</p> <p>21 that give them the right to do what they did to me and</p> <p>22 not have to answer for it?</p> <p>23 Q. Okay. Now, you claim you were denied medical</p> <p>24 attention at the Espanola Detention Center, correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 47</p> <p>1 more, I was feeling that my life had been all about</p> <p>2 raising kids, going to school, and I never got to do</p> <p>3 anything I wanted to do, I never got to go out with my</p> <p>4 friends. Yes, I went on kind of a binge, a crazy</p> <p>5 thing, I did get a little crazy.</p> <p>6 And I did -- I just felt that I had not</p> <p>7 gotten to experience anything. I had been with my</p> <p>8 boyfriend since I was 17. Did I do -- get a little</p> <p>9 crazy, yes, I did. I don't know why or what I did and</p> <p>10 what I was thinking, but, you know.</p> <p>11 Q. So crazy?</p> <p>12 A. Yes, I did. What I mean by "crazy" is being</p> <p>13 arrested. I mean, that's not me. I never got arrested</p> <p>14 until I was, what, 32, and I got arrested between --</p> <p>15 like from age 32 to 36, all in those years. I just</p> <p>16 kind of went, you know, in this weird spiral down, you</p> <p>17 know.</p> <p>18 I did my job, I raised -- I was raising my</p> <p>19 children, I was going to school, I was working, and</p> <p>20 yes, I felt that maybe I needed -- it was time for</p> <p>21 myself. And I wanted to get out there and see and go</p> <p>22 have fun with my friends, go do this and that, and it</p> <p>23 was a bad decision that I made in my life. Have I done</p> <p>24 that since that incident in 2011, no, I have not been</p> <p>25 in trouble since. I have not gotten in trouble. I</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. I want to turn you to Exhibit Number 6.</p> <p>2 (Exhibit 6 marked.)</p> <p>3 THE WITNESS: Exhibit Number 6?</p> <p>4 Q. (By Mr. Basham) This one right here. This</p> <p>5 is Exhibit 6.</p> <p>6 A. Yes.</p> <p>7 Q. Is that your signature? Simple question.</p> <p>8 A. Yes, it does look like my signature, yes.</p> <p>9 Q. Okay. And this is a Memorandum.</p> <p>10 A. Uh-huh.</p> <p>11 Q. It's from the Espanola Detention Center. And</p> <p>12 the subject is "Refusal of Medical Attention." And it</p> <p>13 says, "I, Shannon Baum, DOB, 11/22/76, am refusing</p> <p>14 medical attention from the Espanola Police</p> <p>15 Department."</p> <p>16 So you claim that they were denying you</p> <p>17 medical attention, correct?</p> <p>18 A. I claim that I was asking to see -- I was. I</p> <p>19 was asked -- I was telling them, "I am in pain. I am</p> <p>20 hurting." Did I want the Espanola Police Department --</p> <p>21 anything further from them, no. I was hurt.</p> <p>22 Q. So you deny --</p> <p>23 A. I just didn't want nothing from these</p> <p>24 officers. I didn't want nothing from anybody at that</p> <p>25 place, you know. I would have just been -- I'm sorry.</p>

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1 Q. So they offered you medical attention and you
2 denied it, correct?
3 A. I guess I did. I don't remember, but I guess
4 I did.
5 Q. Okay.
6 A. According to this statement, I did.
7 Q. With your signature, correct?
8 A. Yes.
9 Q. Let's go to the second-to-the-last document.
10 Let me get this for you here. No, it's not the
11 second. It's the third-to-the-last document in my pile
12 of exhibits.
13 A. This one?
14 Q. This one right here.
15 A. Okay.
16 (Exhibit 7 marked.)
17 Q. (By Mr. Basham) Okay. So you testified you
18 couldn't take showers for four days, correct?
19 A. When I went in, I tried to, I tried to take
20 the shower, but I couldn't. I came out of there just
21 burning and set on fire again. It was like I
22 reactivated everything all over again. The whole Mace
23 reactivated on me.
24 Q. Okay.
25 A. And I was in pain again, but yes, I did try.

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1 I was trying to wash the Mace out of my hair because I
2 had other inmates complaining to me. I couldn't sit by
3 anyone, I couldn't get near anyone, nobody could stand
4 to be near me because all they would do is start
5 coughing excessively because I smelled so bad of Mace,
6 and I was just -- it was horrendous.
7 Q. Okay. But I believe your prior testimony was
8 that you couldn't take a shower for at least four
9 days.
10 A. Yes.
11 Q. Okay. But, in fact, you did take a shower on
12 the same date that you were arrested, correct?
13 A. The shower where they undressed me and threw
14 me in there forcibly?
15 Q. No.
16 A. Okay.
17 Q. Let's go over this document here.
18 A. Sure.
19 Q. If you look at the little symbol there, it
20 says, "County of Santa Fe, State of New Mexico."
21 A. Right.
22 Q. So this is from the Santa Fe County Detention
23 Facility.
24 A. Uh-huh.
25 Q. Okay?

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1 A. Uh-huh.
2 Q. And it says, "Inmate's Name: Shannon Baum."
3 Do you agree with that?
4 A. I do.
5 Q. And then it has a number I guess they gave
6 you, correct?
7 A. Okay.
8 Q. It says, "Did inmate receive a phone call,"
9 and it's checked "yes"?
10 A. Okay.
11 Q. And it says, "Time offered: 10:30 p.m."
12 A. Uh-huh.
13 Q. Okay. And then it says, "Did inmate receive
14 a shower," okay?
15 A. Uh-huh.
16 Q. And it's marked "yes."
17 A. Uh-huh.
18 Q. So that means you took a shower on that day.
19 A. I tried to take a shower. I couldn't. I
20 couldn't take a shower. If anybody knows about Mace,
21 or if you know about Mace, you put your arm inside
22 water and it sets you on fire. Did I want to try to
23 take a shower, yes, yes. Believe me, yes, I would have
24 said, "Yes, I want to take a shower." Could I actually
25 get in a shower, no. I couldn't get in the shower.

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1 Q. So your testimony is that they marked this
2 wrong?
3 A. My testimony is yes, they probably asked me
4 if I wanted a shower and I said yes to try. I did try
5 to take a shower. Did I actually get in the shower,
6 did they actually see me get in the shower, no. No,
7 because the next day, when that lady had told me not to
8 take the shower, when I did receive medical attention,
9 that's when I became aware that you are not supposed to
10 get into water because it causes a reaction.
11 That's why I was in so much pain every time I
12 tried to take a shower. Did I want to get the Mace
13 off, yes. As a person, I would think a shower would
14 help because it would take off the Mace. Was I going
15 to refuse a shower, heck, no. I wanted to get the Mace
16 off. Of course, I'm going to try to get in the shower,
17 but I couldn't.
18 Q. It says, "Did inmate receive a shower?"
19 A. Uh-huh.
20 Q. And it's marked "yes," correct?
21 A. Yes.
22 Q. At 10:30, correct?
23 A. Yes.
24 Q. And it was also your prior testimony that you
25 were transported to Santa Fe County Detention Center

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<p style="text-align: right;">Page 66</p> <p>1 Buffalo Thunder was not there. And we were there, 2 yes. It was probably in, like, 2009, and what happened 3 was we were having a good time and this girl decided 4 just to start bad-mouthing, you know, and she wasn't 5 bad-mouthing me, actually. 6 So she started bad-mouthing my husband and 7 then started telling me and she was just being really, 8 really rude. And I asked her to stop and then we got 9 into it in the bathroom. That's where we got into it, 10 was inside the bathroom. 11 Q. (By Mr. Basham) Okay. And you just told 12 me -- 13 A. And that's the one that I got arrested for, 14 because I was thinking about it. I was in the 15 bathroom, we went on break, and that's the one that I 16 think that I was missing on the assault. That came up, 17 that you had asked me if I remembered. That's the one 18 that happened. 19 Q. Okay. 20 A. That's the only one. I'm sorry to, you know, 21 bring this up now, but that was the one that -- the 22 only one that I can remember that got dismissed, you 23 know, because I saw on there that it was dismissed. 24 She never filed charges, but did I hit her, yes, I 25 did. We were in the bathroom and things escalated.</p>	<p style="text-align: right;">Page 68</p> <p>1 it or anything like that. So, you know, to my 2 knowledge, I just figured that kind of I didn't get 3 charged with it. 4 Q. Okay. But you were arrested, correct? 5 A. Yes, I was. That was one of the nights that 6 I just didn't recall. 7 Q. Okay. Did she hit you? 8 A. Yes, she did. 9 Q. Where? 10 A. She punched me a couple times in the face, 11 but I guess you could say I got arrested because I got 12 the better end of it. 13 Q. And you were getting the best of Officer 14 Ortega, too, weren't you? 15 A. Actually, I was just holding her in a bear 16 hug. I never once hit her with a closed fist. I never 17 hit her hard ever. I held her in a bear hug the whole 18 time, never raised my fists to her, never hit her. 19 And, I mean, that could have been said by just looking 20 at my fists. 21 And the nurse that was there, you know, she 22 told me that when she asked me what happened. She 23 said, "Well, your wrists aren't messed up. So you can 24 tell you didn't hit her with a closed fist. So what 25 are the charges?" And I told her.</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. So just to be clear, previously you testified 2 that you didn't know or you couldn't remember why you 3 were arrested for battery. 4 A. Right, I did. 5 Q. Now, you are telling us that, in fact, you 6 were arrested for a fight at Cities of gold in the 7 bathroom? 8 A. Yes. Yes, I am. I couldn't -- I didn't 9 recall. I was sitting here thinking. We went on break 10 and everything and I started to remember as we were 11 going through this, but at the time when you asked me 12 it, and you asked me to remember that far back, I 13 didn't remember. 14 As we were going through, yes, I started to 15 remember. I am starting -- you know, I'm trying to 16 remember everything that happened. Do I remember that 17 night, yes, I remember now, now that you presented it 18 to me, yes, I remember why. 19 You know, the reason I said I don't remember 20 going is because I never went to court on it, nothing 21 ever became of it, it got dismissed, and they dropped 22 the charges. So, I mean, they took me in to the police 23 station, they took my, you know, fingerprints, but then 24 they released me. And they released me to Jeff and 25 nothing ever came of it. I never had to go to court on</p>	<p style="text-align: right;">Page 69</p> <p>1 But I know for a fact that I did not strike 2 that officer. All I did was hold her with a bear hug. 3 That's all I did. And why did I hold her, because yes, 4 I had been drinking, I had been emotional, I was out of 5 my mind, being stupid. 6 It was all -- when you get into something 7 like that, you are not thinking. I wasn't thinking. I 8 was just trying to hold her so she couldn't arrest me 9 or so she couldn't hit me. So my thinking was just 10 hold her, you know, and that's all I did, is I put my 11 arms around her and I held her as tight as I could. 12 Q. But you admit you were being crazy, correct? 13 A. I admit I wasn't in my right mind. 14 Q. Okay. Let's go to this next exhibit. 15 A. Okay. 16 (Exhibit 10 marked.) 17 Q. (By Mr. Basham) And this is an Order Setting 18 Conditions of Release. 19 Okay. Do you recognize this exhibit? 20 A. Okay. This is on June 11th -- I mean, June 21 29th, 2011. So I am guessing this is something when I 22 got out of jail, right? 23 Q. That's your signature, right? 24 A. Yes, that's my signature, but what this is, I 25 am not sure. Oh, Conditions of Release. Okay. I</p>

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1 see. Conditions of Release, yes.
2 **Q. And it's signed by George Anaya, Junior,**
3 **correct?**
4 A. Okay.
5 **Q. Let me ask you this, how long were you in**
6 **jail after your arrest for this incident?**
7 A. Twenty days. It was around 20 days, 19 days,
8 18 days, because I went in on, what, June 7th, and I
9 didn't get out until here, until this time, because it
10 was right before my son's birthday, I remember.
11 **Q. So why didn't you bond out earlier?**
12 A. Why didn't I bond out earlier?
13 **Q. Uh-huh.**
14 A. Because the Judge wouldn't let me. The Judge
15 said that I had beat Michelle Ortega up and put her in
16 the hospital. And I couldn't understand where they got
17 that information because I never even hit the girl. I
18 never even struck her.
19 And so I was in awe, thinking, "Why is she in
20 the hospital when all I did was bear hug the girl?"
21 That was my whole thing. I couldn't understand why she
22 was in the hospital for things when I was the one that
23 got my butt whipped. Sorry.
24 **Q. So, I mean, judges always set bonds.**
25 A. Right. And he put mine at 100,000, like if I

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1 murdered someone, you know, which I thought was insane,
2 because I didn't even much less punch the girl or hit
3 her. The only thing I was trying to do was keep her
4 from hitting me and holding her, you know.
5 And so I couldn't understand the gist of it
6 or what was going on. All I knew is that, you know, I
7 had not gotten to say my side to anybody and they just
8 basically said, "You are staying in there for this much
9 because she is in the hospital." For what, I don't
10 know.
11 **Q. Going back to the incident, did anyone pull**
12 **you off of Officer Ortega?**
13 A. No, nobody pulled me off of Officer Ortega.
14 Nobody did. I was behind her. I was holding her in a
15 bear hug the whole time. The reason that I let go was
16 because I heard sirens coming and I heard footsteps
17 running towards me and they were screaming at me to let
18 go.
19 That's when I lifted my arms and I said,
20 "Okay. Okay." That's when I started getting sprayed
21 continuously with Mace, and they wouldn't stop. But
22 did anybody try to pull me off or anything, no. There
23 was nobody -- nobody touched me, unless, like, I am
24 super strong and I didn't feel anything, because I was
25 in a bear hug, had her held until the other officers

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1 arrived, and I let go.
2 That's when I let go, was as soon as I heard
3 the cop cars drive up and all the -- and that's what I
4 heard, is I heard all the yelling and I heard shoes
5 running. I remember the noise of the shoes running
6 towards me.
7 **Q. And you weren't Maced at that point in time?**
8 A. I had not been Maced at that point in time
9 until I heard them and I lifted my arms and I said,
10 "Okay. Okay." And that's when I got Maced. That's
11 when I started getting Maced.
12 **Q. And on this document, Order Setting**
13 **Conditions of Release, I have something highlighted**
14 **there.**
15 A. Uh-huh.
16 **Q. It says "Finding."**
17 A. Uh-huh.
18 **Q. "Second violent offense against law**
19 **enforcement in four weeks."**
20 A. Uh-huh.
21 **Q. Okay. So we know you had the issue with**
22 **Officer Ortega.**
23 A. Uh-huh.
24 **Q. What's the other?**
25 A. I have no idea. You tell me, because I have

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1 no idea who the other officer is that I supposedly was
2 violent with.
3 **Q. This was during your crazy period of time,**
4 **right?**
5 A. This was during the period of time that I was
6 kind of -- yes, that I was not -- that I wanted to be
7 out with friends and I was tired of being the Sally
8 homemaker.
9 **Q. Where you were not in your right mind,**
10 **correct?**
11 A. I was in my right mind. I wasn't out of my
12 mind every single day. Did I go and have a drink once
13 in awhile, yes. Does it impair your judgment, yes.
14 That's what I am conceding to, is my judgment was
15 impaired.
16 By being "crazy," I mean, my judgment was
17 impaired. It's not that I am looney or that I belong
18 inside a mental house. It's just that yes, my judgment
19 was impaired. Was I impaired every single day, no,
20 no. I worked. I have kids.
21 Did I fall off the wagon and go sometimes a
22 little bit off, yes, I did, but I didn't -- you know,
23 this one, for the violence on the officer, I couldn't
24 tell you who I was violent with four weeks before. I
25 mean, there is no arrest record of me being violent

EXHIBIT C

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Greg Esparza
October 10, 2014

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1 Q. Did you hear that call? Is that how you know
2 that?
3 A. Yes. Yes.
4 Q. Okay.
5 A. She advised dispatch that she was okay, but
6 she did sound to be very winded and exhausted.
7 Q. That is what they told you; right?
8 A. No, sir. That is what I heard, sir.
9 Q. That is what you heard as you were listening
10 to the dispatch --
11 A. Radio, yes.
12 MR. BASHAM: One at a time.
13 Q. Sounded winded, you said?
14 A. Winded and exhausted.
15 Q. Go ahead. So you continue -- where were you
16 or how far away were you when you heard Michelle
17 dispatch -- call dispatch to say she was okay?
18 A. I was just around the corner, the street --
19 like I said, we were approaching La Joya Street, which
20 isn't very far.
21 Q. Was there anything else in that dispatch
22 message from Michelle to dispatch regarding her actions
23 or the actions of the defendant?
24 A. I don't recall.
25 Q. You don't recall. Was there more said even

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1 though you don't recall what was said?
2 A. I don't recall, sir.
3 Q. Okay. So how soon did you arrive at the car
4 wash?
5 A. We just -- moments later, seconds.
6 Q. Seconds?
7 A. Seconds later.
8 Q. When you arrived on the scene, what did you
9 see?
10 A. Well, actually, we arrived -- Officer Martin
11 Vigil was directly in front of my patrol unit. We
12 arrive together. He arrived on the scene directly near
13 where Officer Ortega was standing, and I pulled in right
14 behind him. It is right next to the main office of the
15 car wash.
16 Q. Was she standing when you got there?
17 A. Yes.
18 Q. When you came into the driveway, you were
19 right -- right on Officer Vigil, I would assume? I
20 mean, you were right one after the other?
21 A. Yes, that is correct.
22 Q. You say she was standing. I would assume that
23 she was standing when he came in as well?
24 A. I can't say what he saw.
25 Q. Okay.

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1 A. I can only tell you what I saw.
2 Q. You saw she was standing as you drove into the
3 parking lot?
4 A. Yes.
5 Q. Where was she standing?
6 A. She was standing -- there is the main office,
7 and then there is three bays where there is vacuums and
8 you can dry your car and stuff. She was standing, I
9 believe, right near the second bay.
10 Q. Okay, and where was Shannon Baum?
11 A. She was right next to the -- right next to the
12 third bay, right in between the third and second bay.
13 She was right in front.
14 Q. Was she standing? Laying down? Kneeling?
15 MR. BASHAM: Objection as to form.
16 Q. (By Mr. Marlowe) When you saw her, what
17 position was she in?
18 A. She was actually on the ground. She was
19 seated. She was not on her butt, but she was actually
20 on her hip, on her right hip on the floor, and she had
21 both her arms -- her hands out in front of her on the
22 ground, and she was yelling and screaming.
23 Q. What was she yelling?
24 A. I don't recall exactly what it was. Let me
25 see here. I will refer to my report here. She was

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1 yelling that her eyes and her face were burning.
2 Q. Do you know why that would be?
3 A. Well, I went to -- Officer Vigil went to
4 secure Ms. Shannon Baum, and I went over to Officer
5 Ortega to check on her and see if she was okay.
6 Q. Okay, and what did you find out from checking
7 on Officer Ortega?
8 A. She said she was -- she was okay. From what I
9 saw on her, it looked like she had been in a fight. Her
10 hair was pulled out, her face was red, her uniform was
11 pulled out. It was soiled. It was clear she looked
12 like she had been in a fight.
13 Q. Was she upset, or was she calm?
14 A. She was hysterical. She was trying to catch
15 her breath and stuff.
16 Q. Did you ever administer Mace to Shannon Baum
17 at any time that night?
18 A. No.
19 Q. Did Officer Vigil ever administer Mace?
20 A. No.
21 Q. Did you ever put a gag bag -- or what do they
22 call it -- spit bag -- did you ever put a spit bag on
23 Shannon Baum?
24 A. I put a spit hood on her, yes, I did.
25 Q. What was the location of that?

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<p style="text-align: right;">Page 18</p> <p>1 Q. Complaining about being Maced?</p> <p>2 A. Well, that was part of it, but she was just</p> <p>3 yelling and screaming and yelling derogatories toward</p> <p>4 myself and the other officers, cussing, swearing.</p> <p>5 Q. Okay. Have you ever been disciplined by the</p> <p>6 Police Department for excessive force or anything like</p> <p>7 that?</p> <p>8 A. No.</p> <p>9 Q. Did you ever hear any conversation between</p> <p>10 Officer Vigil and Shannon Baum?</p> <p>11 A. No, I do not believe that there was any</p> <p>12 conversation. We were both there together the entire</p> <p>13 time.</p> <p>14 Q. What about between you and Shannon Baum?</p> <p>15 A. Did I witness any conversation?</p> <p>16 Q. No. Did you ever say anything to her, or did</p> <p>17 she ever say anything to you?</p> <p>18 A. I was trying to answer, but you answered two</p> <p>19 different questions.</p> <p>20 Q. Sorry.</p> <p>21 A. Which one do you want me to answer?</p> <p>22 Q. Did you ever say anything to her?</p> <p>23 A. You are kind of running into me.</p> <p>24 Q. Did you ever say anything to her?</p> <p>25 A. Several things. I asked her several</p>	<p style="text-align: right;">Page 20</p> <p>1 A. No. It was part of the Academy training.</p> <p>2 Q. Part of the Academy training, okay.</p> <p>3 I note you are using your police report there</p> <p>4 to refresh your recollection, I assume?</p> <p>5 A. Yes.</p> <p>6 Q. Can we attach that as an exhibit?</p> <p>7 MR. BASHAM: Sure.</p> <p>8 MR. MARLOWE: This will be Exhibit 1 to this</p> <p>9 deposition.</p> <p>10 (Exhibit 1 marked.)</p> <p>11 Q. (BY MR. MARLOWE) Why did you place a spit bag</p> <p>12 on her?</p> <p>13 A. After I placed her in the back of my patrol</p> <p>14 unit -- the reason I placed her and didn't leave her</p> <p>15 sitting in front was she was continuing yelling and</p> <p>16 cursing, and she attempted to get up and what appeared</p> <p>17 to be attempt to flee a couple times, then I sat her</p> <p>18 back down, and then when she did it another time, that</p> <p>19 is when I walked over to my patrol unit and put her in</p> <p>20 the back of my patrol unit and seatbelted her.</p> <p>21 When she was in the back of my patrol unit,</p> <p>22 she was continuing yelling, swearing, cursing, then</p> <p>23 started to spit on the back partition and back windows</p> <p>24 of the vehicle, so that is when I went, and I removed</p> <p>25 the spit bag from my trunk -- the spit hood from my</p>
<p style="text-align: right;">Page 19</p> <p>1 questions.</p> <p>2 Q. What did you ask her?</p> <p>3 A. I don't recall. I asked her if she was okay,</p> <p>4 asked her if she was hurt, medics went over there, asked</p> <p>5 her if she was okay, different stuff like that.</p> <p>6 Q. Okay, and did she respond?</p> <p>7 A. Yeah. She said she was not injured. She was</p> <p>8 just complaining of the Mace.</p> <p>9 Q. You are saying that you walked her to the car,</p> <p>10 meaning you helped her stand up?</p> <p>11 A. Yes.</p> <p>12 Q. And walked her to the back seat of your car?</p> <p>13 A. Yes.</p> <p>14 Q. Okay, and then you put the spit bag on her?</p> <p>15 A. No, not immediately, no, sir. No.</p> <p>16 Q. Was she ever Maced again?</p> <p>17 A. No.</p> <p>18 Q. Nobody ever Maced her again?</p> <p>19 A. Sir, I already answered that question, sir.</p> <p>20 Q. Who Maced her the first time?</p> <p>21 A. Officer Talache -- I'm sorry, Officer Ortega.</p> <p>22 Q. Have you had training in the use of Mace?</p> <p>23 A. Yes.</p> <p>24 Q. Was that separate from your regular basic</p> <p>25 training?</p>	<p style="text-align: right;">Page 21</p> <p>1 trunk and placed it on her.</p> <p>2 Q. Okay, and what we have here -- this has been</p> <p>3 marked as an exhibit in Michelle's deposition. Is this</p> <p>4 the bag or the type of bag that you used?</p> <p>5 A. It is the same type. It is not the same one,</p> <p>6 but it is the same type.</p> <p>7 Q. But it is the same type with the netting and</p> <p>8 just everything that you see here?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Then how long were you on the scene?</p> <p>11 A. Oh, I don't know, several minutes.</p> <p>12 Q. Okay, and I am not sure I understood your</p> <p>13 answer when you said she started to flee.</p> <p>14 Was that before -- was that while she was</p> <p>15 handcuffed?</p> <p>16 A. Yes.</p> <p>17 Q. When you say she started to flee, do you mean</p> <p>18 that she got up?</p> <p>19 A. Yeah, she was getting up from the seated</p> <p>20 position. It looked like she was attempting to flee, so</p> <p>21 that is when I sat her back down. After she did it I</p> <p>22 believe a third time, that is when I went and put her in</p> <p>23 the back of my patrol unit.</p> <p>24 After that is when I was attempting to get</p> <p>25 some more information from the incident from Officer</p>

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<p style="text-align: right;">Page 22</p> <p>1 Ortega, and that is when she started spitting and</p> <p>2 yelling and hollering, stuff like that, she was spitting</p> <p>3 all over the windows in the back of the partition, so</p> <p>4 that is when I proceeded back to my patrol unit, placed</p> <p>5 the spit hood on her, and then I transported her to the</p> <p>6 Espanola jail.</p> <p>7 Q. Okay. When did the ambulance come to take</p> <p>8 Michelle away?</p> <p>9 A. They were there shortly after.</p> <p>10 Q. They were there the whole time?</p> <p>11 A. They were there shortly after we arrived, sir.</p> <p>12 Q. Do you know if Michelle Ortega was present</p> <p>13 when you finished the handcuffing and put her in the</p> <p>14 car?</p> <p>15 A. Yeah, she was there.</p> <p>16 Q. She was there?</p> <p>17 A. She was there when we handcuffed her. She was</p> <p>18 actually -- I believe she was seated in her patrol unit,</p> <p>19 I think it was -- I am not sure, but she was seated in a</p> <p>20 vehicle while we were -- while I had placed Shannon in</p> <p>21 the back of my patrol unit. She was actually seated in</p> <p>22 the vehicle, and she was getting medical attention.</p> <p>23 Q. She didn't participate in the actual final</p> <p>24 cuffing and placing in the car?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 24</p> <p>1 she had -- that she was trying to get her gun, that she</p> <p>2 said that she was going to kill her with her own gun. I</p> <p>3 was trying to get bits and pieces as the medics were</p> <p>4 talking to her, but that is something that she had told</p> <p>5 me immediately when I had got on scene and I was</p> <p>6 checking if she was okay. That is when she told me,</p> <p>7 "She was trying to get my gun. Said she was going to</p> <p>8 kill me with my gun."</p> <p>9 Q. Did you notice any injuries to Michelle?</p> <p>10 A. Yes, sir. She had injuries to her knees,</p> <p>11 hair, she had scratches.</p> <p>12 Q. Scratches to her face?</p> <p>13 A. To her face, her hands.</p> <p>14 Q. Okay.</p> <p>15 A. And I know she had abrasions to both her</p> <p>16 knees, because when they were -- when they were -- when</p> <p>17 I was speaking to her, they were tending to her, and she</p> <p>18 had her pants rolled up, and I could see that her knees</p> <p>19 were scraped up.</p> <p>20 Q. Okay. Anything else that she said that you</p> <p>21 can remember?</p> <p>22 A. There was several things that she said, but I</p> <p>23 can't remember everything that she said offhand.</p> <p>24 Q. Did you have your lapel cameras working?</p> <p>25 A. We didn't have lapel cameras, sir.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Anything like that?</p> <p>2 A. No.</p> <p>3 Q. What did you do after you arrested Shannon?</p> <p>4 A. I am not sure what you are asking.</p> <p>5 Q. After you arrested the defendant, the</p> <p>6 individual that was there, what did you do after you</p> <p>7 arrested her or after -- let me rephrase that.</p> <p>8 A. Okay.</p> <p>9 Q. After you placed her in the back of the car --</p> <p>10 A. Okay.</p> <p>11 Q. -- where did you go after that?</p> <p>12 A. That is just what I had just explained to you.</p> <p>13 MR. BASHAM: Explain that again.</p> <p>14 A. After I placed her in the back of the car was</p> <p>15 when I attempted to get more information from Officer</p> <p>16 Ortega, so I was speaking to Officer Ortega when Shannon</p> <p>17 was still in the back of my unit. She was still yelling</p> <p>18 and hollering, and that is when she started to spit on</p> <p>19 the back partition and back windows of the vehicle.</p> <p>20 Q. Okay. What did Officer Ortega do -- what did</p> <p>21 Officer Ortega say?</p> <p>22 A. That is when I was attempting to get a</p> <p>23 statement from her. That is when she was telling me</p> <p>24 that she was -- she was still trying to get -- get calm</p> <p>25 and stuff from the incident. She was telling me that</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Did you have your belt tapes working?</p> <p>2 A. No.</p> <p>3 Q. Did not have them on?</p> <p>4 A. No.</p> <p>5 Q. Is that permitted under your SOPs, or are you</p> <p>6 supposed to have them on?</p> <p>7 A. I didn't have one at that time, sir.</p> <p>8 Q. You didn't have one?</p> <p>9 A. I had an in-car camera, but my in-car camera</p> <p>10 didn't work.</p> <p>11 Q. Okay, and you were outfitted, I assume, much</p> <p>12 the same as Michelle was? You had your gun, your</p> <p>13 bulletproof vest, your Taser, your Mace, your handcuffs.</p> <p>14 Did you have a baton?</p> <p>15 A. Yes.</p> <p>16 Q. A collapsible one that you wear on your belt?</p> <p>17 A. Yes.</p> <p>18 Q. Anything else that I am missing?</p> <p>19 A. Belt keepers, extra magazines, just the normal</p> <p>20 duty -- duty stuff.</p> <p>21 Q. Okay, and after -- how long were you on the</p> <p>22 scene with her in the back of the car?</p> <p>23 A. She was only in the back of the car for a few</p> <p>24 minutes, maybe about -- I don't know, I am going to say</p> <p>25 maybe about ten minutes she was back there.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q. Okay. Then where did you go after that?</p> <p>2 A. After that, I transported her directly to the</p> <p>3 jail.</p> <p>4 Q. To the Espanola city jail?</p> <p>5 A. Yes.</p> <p>6 Q. Over on Onate?</p> <p>7 A. No. On Industrial Park Road.</p> <p>8 Q. On Industrial Park Road?</p> <p>9 A. Yes, sir.</p> <p>10 MR. MARLOWE: I guess that is the new jail.</p> <p>11 MR. BASHAM: It is not a jail. It is a whole</p> <p>12 new facility.</p> <p>13 Q. (By Mr. Marlowe) That is not the jail?</p> <p>14 A. No. We call it the jail, but it is the</p> <p>15 transport center.</p> <p>16 Q. Did you ever take her to the jail?</p> <p>17 A. No.</p> <p>18 Q. Where was -- was David Oviedo working there?</p> <p>19 A. Yes.</p> <p>20 Q. He was the guy that was the intake person or</p> <p>21 what was his --</p> <p>22 A. Transport booking officer.</p> <p>23 Q. He was the transport booking officer?</p> <p>24 A. Yes.</p> <p>25 Q. She got booked in there?</p>	<p style="text-align: right;">Page 28</p> <p>1 A. No.</p> <p>2 Q. There was only you and Officer Vigil and David</p> <p>3 Oviedo?</p> <p>4 A. I don't believe Officer Vigil was there, sir.</p> <p>5 Q. He was not there?</p> <p>6 A. I don't believe so, but I am not sure.</p> <p>7 MR. BASHAM: And the firefighters.</p> <p>8 THE WITNESS: I believe there was two</p> <p>9 firefighters there.</p> <p>10 Q. (By Mr. Marlowe) Who were they?</p> <p>11 A. I don't recall their names. I think -- I</p> <p>12 believe one of them was Jack -- I don't know his last</p> <p>13 name, and I think the other one may have been -- I don't</p> <p>14 even know his name. He is the fire chief now, but I</p> <p>15 don't -- I don't know exactly who they were. I think</p> <p>16 those may have been the ones, but I am not 100 percent</p> <p>17 sure.</p> <p>18 Q. Okay, and were you there while she was --</p> <p>19 until she finished being in the shower?</p> <p>20 A. Yes.</p> <p>21 Q. What happened after that?</p> <p>22 A. So after that, I gave her a towel, she dried</p> <p>23 off, took her back over to the booking area. That is</p> <p>24 when I told her that she was under arrest for the DWI.</p> <p>25 I read her the New Mexico Implied Consent Act and asked</p>
<p style="text-align: right;">Page 27</p> <p>1 A. I believe so, sir.</p> <p>2 Q. Did she ever -- was she ever placed in a</p> <p>3 shower? Disrobed and placed in a shower?</p> <p>4 A. She was never disrobed during while I was</p> <p>5 present.</p> <p>6 Q. Did she ever take a shower?</p> <p>7 A. What it was is we called medics to the scene</p> <p>8 to check her again at the jail. Paramedics arrived,</p> <p>9 they checked her, said she was okay. She was only</p> <p>10 complaining of the Mace. The process of decontamination</p> <p>11 is rinse her face with water. They said she needed to</p> <p>12 be decontaminated.</p> <p>13 I assisted Officer Oviedo and the firefighters</p> <p>14 in taking her to the shower so she could wash her face.</p> <p>15 The shower was turned on. It is a removable one where</p> <p>16 you can rinse your face. She was told to rinse her</p> <p>17 face. She was rinsing her face in the water, and then</p> <p>18 she just jumped in the shower on her own and was rinsing</p> <p>19 her face inside the water. She never took off her</p> <p>20 clothes at any time, sir.</p> <p>21 Q. She never took off her clothes at any time?</p> <p>22 A. No.</p> <p>23 Q. She was always fully clothed?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Were there any female officers there?</p>	<p style="text-align: right;">Page 29</p> <p>1 her if she agreed to be tested.</p> <p>2 Let's see, I believe she first agreed to be</p> <p>3 tested, and then she -- afterwards she immediately</p> <p>4 stated no, and she said that she wasn't driving. So I</p> <p>5 read her consequences for refusal, and she still refused</p> <p>6 to be tested.</p> <p>7 Q. You never saw her driving though; did you?</p> <p>8 A. What is that?</p> <p>9 Q. You never saw her driving?</p> <p>10 A. No, I did not.</p> <p>11 Q. Okay.</p> <p>12 A. The reason the DWI was done is under the</p> <p>13 statement from Officer Ortega.</p> <p>14 Q. Okay. Was that the -- that was the end of it</p> <p>15 for you?</p> <p>16 A. Let's see here. After that, that is when I</p> <p>17 went back to the hospital, and I spoke to Officer</p> <p>18 Ortega, and I got her full statement from there.</p> <p>19 Q. You went back, and is that statement part of</p> <p>20 your report?</p> <p>21 A. Her statement?</p> <p>22 Q. Yes.</p> <p>23 A. No. What I did is I got a verbal statement</p> <p>24 from her. Then after she was released from the</p> <p>25 hospital, she went home. She typed me out a statement,</p>

EXHIBIT D



CITY OF ESPAÑOLA
DEPARTMENT OF PUBLIC SAFETY
HOLDING AND TRANSPORT FACILITY
Mayor Alice A. Lucero

LEO R. MONTOYA
Chief of Police

JOSE TED GARCIA
Director

Memorandum

Date:

From: Española Detention Center

Subject: Refusal of Medical Attention

I Shannon Baum (Detainee Name) DOB: 11-22-76
am refusing medical attention from the Española Police Department and The Española Detention
Center on 06.07.14 at 2045 HRS.

Inmate Signature: S. Baum

Booking Officer: _____

